

State of Arizona
Senate
Forty-fifth Legislature
First Regular Session
2001

CHAPTER 377

SENATE BILL 1137

AN ACT

AMENDING TITLE 28, CHAPTER 2, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-411; AMENDING SECTIONS 28-448, 28-3005, 28-3174, 28-3312 AND 28-3315, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 8, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 9; AMENDING SECTION 28-4834, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2001, CHAPTER 210, SECTION 1; AMENDING SECTION 28-5812, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2001, CHAPTER 40, SECTION 1; RELATING TO TRANSPORTATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 28, chapter 2, article 4, Arizona Revised Statutes,
3 is amended by adding section 28-411, to read:

4 28-411. Prompt payment; progress payment; consultants and
5 contractors; subconsultants and subcontractors

6 A. THE DEPARTMENT SHALL MAKE PROGRESS PAYMENTS PURSUANT TO THE TERMS
7 OF AN AGREEMENT WITH A CONSULTANT OR CONTRACTOR ON THE BASIS OF AN INVOICE
8 FOR WORK ALREADY PERFORMED. ALL PROGRESS PAYMENTS SHALL BE PAID ON OR BEFORE
9 THE TWENTY-FIRST DAY AFTER THE DATE THE DEPARTMENT RECEIVES THE INVOICE
10 UNLESS THE DEPARTMENT DOES NOT APPROVE AND CERTIFY THE INVOICE PURSUANT TO
11 SUBSECTION B OF THIS SECTION.

12 B. ANY INVOICE FROM A CONSULTANT OR CONTRACTOR FOR PROGRESS PAYMENTS
13 SHALL BE DEEMED APPROVED AND CERTIFIED BY THE DEPARTMENT UNLESS WITHIN SEVEN
14 DAYS FROM THE DATE THE DEPARTMENT RECEIVES THE INVOICE THE DEPARTMENT SENDS
15 THE CONSULTANT OR CONTRACTOR WRITTEN NOTICE BY FIRST CLASS MAIL OF THOSE
16 ITEMS THAT THE DEPARTMENT DOES NOT APPROVE AND CERTIFY UNDER THE TERMS OF THE
17 AGREEMENT.

18 C. ON OR BEFORE THE SEVENTH DAY AFTER THE DATE THE DEPARTMENT MAKES
19 A PROGRESS PAYMENT, IF THE CONSULTANT OR CONTRACTOR CONTRACTED WITH
20 SUBCONSULTANTS OR SUBCONTRACTORS TO PERFORM THE WORK FOR WHICH THE DEPARTMENT
21 MADE THE PROGRESS PAYMENT, THE CONSULTANT OR CONTRACTOR SHALL PAY THE
22 SUBCONSULTANTS OR SUBCONTRACTORS FOR THE WORK PERFORMED TO THE EXTENT OF EACH
23 SUBCONSULTANT'S OR SUBCONTRACTOR'S CONTRACTUAL INTEREST IN THE PROGRESS
24 PAYMENT. IF ANY SUBCONSULTANT OR SUBCONTRACTOR CONTESTS THE AMOUNT PAID BY
25 A CONSULTANT OR CONTRACTOR FROM A PROGRESS PAYMENT MADE UNDER SUBSECTION A
26 OF THIS SECTION, THE SUBCONSULTANT OR SUBCONTRACTOR SHALL NOTIFY THE
27 DEPARTMENT IN WRITING WITHIN THIRTY DAYS AFTER RECEIVING THE PAYMENT FROM THE
28 CONSULTANT OR CONTRACTOR. THIS SUBSECTION DOES NOT APPLY IF THE CONTRACT
29 BETWEEN THE CONSULTANT OR CONTRACTOR AND THE SUBCONSULTANT OR SUBCONTRACTOR
30 EXPRESSLY PROVIDES THAT THE PROMPT PAYMENT PROVISIONS OF THIS SUBSECTION DO
31 NOT APPLY TO THE AGREEMENT BETWEEN THE CONSULTANT OR CONTRACTOR AND THE
32 SUBCONSULTANT OR SUBCONTRACTOR.

33 D. IF A CONSULTANT OR CONTRACTOR FAILS TO PAY A SUBCONSULTANT OR
34 SUBCONTRACTOR WITHIN SEVEN DAYS OF RECEIVING A PROGRESS PAYMENT FROM THE
35 DEPARTMENT, THE CONSULTANT OR CONTRACTOR SHALL PAY THE SUBCONSULTANT OR
36 SUBCONTRACTOR INTEREST ON THE UNPAID BALANCE, BEGINNING ON THE EIGHTH DAY AT
37 THE RATE OF ONE PER CENT PER MONTH OR FRACTION OF A MONTH. THIS SUBSECTION
38 DOES NOT APPLY IF THE CONTRACT BETWEEN THE CONSULTANT OR CONTRACTOR AND THE
39 SUBCONSULTANT OR SUBCONTRACTOR EXPRESSLY PROVIDES THAT THE PROMPT PAYMENT
40 PROVISIONS OF THIS SUBSECTION DO NOT APPLY TO THE AGREEMENT BETWEEN THE
41 CONSULTANT OR CONTRACTOR AND THE SUBCONSULTANT OR SUBCONTRACTOR.

42 E. A SUBCONSULTANT OR SUBCONTRACTOR MAY SUBMIT A WRITTEN REQUEST TO
43 THE DEPARTMENT ASKING THE DEPARTMENT TO NOTIFY THE SUBCONSULTANT OR
44 SUBCONTRACTOR OF EACH SUBSEQUENT PROGRESS PAYMENT MADE TO THE CONSULTANT OR

1 CONTRACTOR. IF THE DEPARTMENT RECEIVES A WRITTEN REQUEST UNDER THIS
2 SUBSECTION, THE DEPARTMENT SHALL SEND THE REQUESTING PARTY A WRITTEN NOTICE
3 BY FIRST CLASS MAIL OF EACH SUBSEQUENT PROGRESS PAYMENT WITHIN FIVE DAYS OF
4 MAKING THE PROGRESS PAYMENT.

5 F. AGREEMENTS WITH THE DEPARTMENT FOR CONSULTANT OR CONTRACTOR
6 SERVICES DO NOT ALTER THE RIGHTS OF ANY CONSULTANT OR CONTRACTOR TO RECEIVE
7 PROMPT AND TIMELY PAYMENT AS PROVIDED UNDER THIS SECTION.

8 G. TO THE EXTENT THAT THIS SECTION CONFLICTS WITH SECTION 28-6924,
9 SECTION 28-6924 CONTROLS ANY AGREEMENT BETWEEN THE DEPARTMENT AND A
10 CONTRACTOR FOR HIGHWAY CONSTRUCTION PROJECTS.

11 Sec. 2. Section 28-448, Arizona Revised Statutes, is amended to read:

12 28-448. Notice of address or name change; address update; civil
13 traffic violation

14 A. If a person's name or address changes after the person applies for
15 or receives a driver license or nonoperating identification license or after
16 the person applies for or receives a vehicle registration or vehicle title,
17 the person shall notify the department within ten days after the change of
18 the old and new address or the former and new name and the following:

19 1. If a registration or title is applied for or received, the number
20 of vehicles registered to the person and the vehicle identification numbers
21 of the vehicles.

22 2. If a driver license or nonoperating identification license is
23 applied for or received, the person's date of birth and the number of each
24 license held by the person or a statement that each license is suspended,
25 revoked or canceled.

26 B. A person may notify the department of an address change by
27 telephone, in writing, in person or by approved electronic means AND OF A
28 NAME CHANGE IN PERSON OR IN WRITING.

29 C. The department may update an address in a vehicle registration
30 record or driver license record if a traffic citation received by the
31 department or records of another consenting government agency indicate an
32 address change after the date the address was stated in department records.

33 D. A violation of this section is a civil traffic violation.

34 Sec. 3. Section 28-3005, Arizona Revised Statutes, is amended to read:

35 28-3005. Medical or psychological reports; immunity;
36 definitions

37 A. A physician, psychologist or certified substance abuse counselor
38 who provides information to the director in good faith and at the written
39 request of a driver license applicant or licensee concerning a person's
40 medical or psychological condition with respect to operation of a motor
41 vehicle is immune from personal liability with respect to the information
42 provided.

43 B. Notwithstanding the physician-patient or psychologist-client
44 confidentiality relationship, a physician or psychologist may voluntarily

1 report a patient to the department who has a medical or psychological
2 condition that in the opinion of the physician or psychologist could
3 significantly impair the person's ability to safely operate a motor vehicle.
4 If a report is made, the physician or psychologist shall make the report in
5 writing, including the name, address and date of birth of the patient. On
6 receipt of the report, the department may require an examination of the
7 person reported in the manner provided by section 28-3314. A person shall
8 not bring an action against a physician or psychologist for not making a
9 report pursuant to this subsection. The physician or psychologist submitting
10 the report in good faith is immune from civil or criminal liability for
11 making the report pursuant to this subsection. The physician's or
12 psychologist's report is subject to subpoena or order to produce in an action
13 except an action against the physician or psychologist submitting the report.

14 C. In this section:

15 1. "Certified substance abuse counselor" means a person who is
16 certified by the board of behavioral health examiners in this state, who is
17 certified in a ~~contiguous~~ ANOTHER state, who is certified by a board for
18 certification of addiction counselors, who is a nationally certified
19 addiction counselor or who is employed by the federal government and
20 practicing in this state.

21 2. "Medical or psychological condition" means a condition that could
22 affect a person's functional ability to safely operate a motor vehicle.

23 3. "Physician" means a medical doctor, optometrist, chiropractor,
24 naturopathic physician, doctor of osteopathy or doctor of homeopathy who is
25 licensed to practice in this state or a ~~state contiguous to this~~ ANOTHER
26 state or who is employed by the federal government and practicing in this
27 state or their agents.

28 4. "Psychologist" means a person who is licensed pursuant to title 32,
29 chapter 19.1, who is licensed to practice psychology in a ~~state contiguous~~
30 ~~to this~~ ANOTHER state or who is employed by the federal government and
31 practicing in this state.

32 Sec. 4. Section 28-3174, Arizona Revised Statutes, is amended to read:
33 28-3174. Class G driver licenses; motorcycles

34 A. A person who is under eighteen years of age may apply to the
35 department for a class G driver license if all of the following apply:

36 1. The person is at least sixteen years of age.

37 2. The person has a valid instruction permit issued pursuant to this
38 article and the person has held the instruction permit for at least five
39 months, except that this requirement does not apply to a person who has a
40 currently valid driver license issued by another jurisdiction.

41 3. Either:

42 (a) The person has satisfactorily completed a driver education program
43 that is approved by the department of transportation. If the driver
44 education program is offered by a public high school, the program shall be

1 approved by the department of transportation in consultation with the
2 department of education.

3 (b) A custodial parent or guardian of the person certifies in writing
4 to the department that the applicant has completed at least twenty-five hours
5 of supervised driving practice and that at least five of the required
6 practice hours were at night.

7 B. If the applicant successfully passes the examination prescribed in
8 section 28-3164 and satisfies the requirements prescribed in subsection A of
9 this section, the department may issue a class G driver license to the
10 applicant.

11 C. A class G driver license entitles the licensee to drive a motor
12 vehicle that requires a class G license on the public highways.

13 D. A person who holds a class G driver license may apply for a class
14 D license on or after the person's eighteenth birthday, except that a person
15 whose class G driver license is suspended pursuant to section 28-3321 is not
16 entitled to receive a class D driver license until after the suspension
17 period expires.

18 E. If a person who is under eighteen years of age and at least sixteen
19 years of age applies for a class M license or a motorcycle endorsement, the
20 department shall not issue the class M license or motorcycle endorsement to
21 the person unless both of the following apply:

22 1. The applicant has held an instruction permit issued pursuant to
23 section 28-3156 for at least five months, EXCEPT THAT THIS REQUIREMENT DOES
24 NOT APPLY TO A PERSON WHO HAS A CURRENTLY VALID MOTORCYCLE DRIVER LICENSE OR
25 ENDORSEMENT ISSUED BY ANOTHER JURISDICTION.

26 2. Either:

27 (a) The person has satisfactorily completed a motorcycle driver
28 education program that is approved by the department. If the driver
29 education program is offered by a public high school, the program shall be
30 approved by the department of transportation in consultation with the
31 department of education.

32 (b) A custodial parent or guardian of the person certifies in writing
33 to the department that the applicant has completed at least twenty-five hours
34 of motorcycle driving practice.

35 Sec. 5. Section 28-3312, Arizona Revised Statutes, is amended to read:

36 28-3312. Mandatory disqualification of commercial driver
37 license; definition

38 A. The department shall disqualify a person from driving a commercial
39 motor vehicle as follows:

40 1. Except as otherwise provided in this subsection, for at least one
41 year from the date a person is convicted of a first violation of any of the
42 following:

1 (a) Driving a commercial motor vehicle under the influence of
2 intoxicating liquor or a controlled substance or while having an alcohol
3 concentration of 0.04 or more.

4 (b) Leaving the scene of an accident involving a commercial motor
5 vehicle driven by the person.

6 (c) Using a commercial motor vehicle in the commission of a felony.

7 2. For at least three years, if any of the violations prescribed in
8 paragraph 1 of this subsection occurred while the person was transporting a
9 hazardous material in the quantity and under the circumstances that require
10 placarding of the transport vehicle under the department's safety rules
11 pursuant to chapter 14 of this title.

12 3. Except as provided in subsection B of this section, for the life
13 of the person, if the person is convicted of two or more violations of any
14 of the offenses prescribed in paragraph 1 of this subsection or of any
15 combination of those offenses arising from two or more separate incidents.
16 The department shall consider only offenses committed from and after December
17 31, 1989 in applying this paragraph.

18 4. For the life of the person, if the person uses a commercial motor
19 vehicle in the commission of a felony involving the manufacture, distribution
20 or dispensing of a controlled substance or possession with intent to
21 manufacture, distribute or dispense a controlled substance.

22 5. For at least sixty consecutive days, if the person is convicted of
23 two serious traffic violations committed in a commercial motor vehicle
24 arising from separate incidents occurring within a three year period from the
25 date of the conviction.

26 6. For at least one hundred twenty consecutive days, if the person is
27 convicted of three serious traffic violations committed in a commercial motor
28 vehicle arising from separate incidents occurring within a three year period
29 from the date of the conviction.

30 B. Except as provided in subsection C of this section, a person who
31 is found responsible for violating an out-of-service order pursuant to
32 section 28-5241 is disqualified from driving a commercial motor vehicle as
33 follows:

34 1. For a period of ninety days if the person is found responsible for
35 a first violation of an out-of-service order.

36 2. For a period of one year if the person is found responsible for a
37 second violation of any out-of-service order during any ten year period
38 arising from separate incidents.

39 3. For a period of three years if the person is found responsible for
40 a third or subsequent violation of any out-of-service order during any ten
41 year period arising from separate incidents.

42 C. A person who is found responsible for violating an out-of-service
43 order pursuant to section 28-5241 while transporting hazardous materials or
44 while operating a commercial motor vehicle designed or used to transport

1 sixteen or more passengers, including the driver, is disqualified from
2 driving a commercial motor vehicle as follows:

3 1. For a period of one hundred eighty days if the person is found
4 responsible for a first violation of an out-of-service order.

5 2. For a period of two years if the person is found responsible for
6 a second or subsequent violation of any out-of-service order during any ten
7 year period arising from separate incidents.

8 D. A PERSON WHO IS CONVICTED OF OR FOUND RESPONSIBLE FOR VIOLATING ANY
9 FEDERAL, STATE OR LOCAL RAILROAD GRADE CROSSING LAW, ORDINANCE OR REGULATION
10 IS DISQUALIFIED FROM DRIVING A COMMERCIAL MOTOR VEHICLE AS FOLLOWS:

11 1. FOR A PERIOD OF SIXTY DAYS IF A PERSON IS CONVICTED OF OR FOUND
12 RESPONSIBLE FOR A FIRST VIOLATION.

13 2. FOR A PERIOD OF ONE HUNDRED TWENTY DAYS IF A PERSON IS CONVICTED
14 OF OR FOUND RESPONSIBLE FOR A SECOND VIOLATION DURING ANY THREE YEAR PERIOD.

15 3. FOR A PERIOD OF ONE YEAR IF A PERSON IS CONVICTED OF OR FOUND
16 RESPONSIBLE FOR A THIRD OR SUBSEQUENT VIOLATION DURING ANY THREE YEAR PERIOD.

17 ~~D.~~ E. The department may adopt rules establishing guidelines and
18 conditions under which the department may reduce a disqualification for life
19 pursuant to subsection A, paragraph 3 of this section to a disqualification
20 of at least ten years. IF A PERSON'S DISQUALIFICATION IS REDUCED PURSUANT TO
21 RULES ADOPTED PURSUANT TO THIS SUBSECTION AND THE PERSON IS SUBSEQUENTLY
22 DISQUALIFIED PURSUANT TO SUBSECTION A, PARAGRAPH 3 OF THIS SECTION, THE
23 PERSON IS PERMANENTLY DISQUALIFIED FROM DRIVING A COMMERCIAL VEHICLE AND IS
24 NOT ELIGIBLE TO APPLY FOR A REDUCTION OF THE DISQUALIFICATION PURSUANT TO
25 RULES ADOPTED PURSUANT TO THIS SUBSECTION.

26 ~~E.~~ F. For purposes of this section, "serious traffic violation" means
27 a conviction for any of the following:

28 1. Excessive speeding involving a single offense for a speed of
29 fifteen miles per hour or more above the posted speed limit.

30 2. Reckless driving as provided by section 28-693.

31 3. Aggressive driving as provided by section 28-695.

32 4. Racing as defined in section 28-708.

33 5. Improper or erratic traffic lane changes as provided by section
34 28-729.

35 6. Following the vehicle ahead too closely as provided by section
36 28-730.

37 7. A violation of this title that is connected with a fatal traffic
38 accident.

39 Sec. 6. Section 28-3315, Arizona Revised Statutes, is amended to read:
40 28-3315. Period of suspension, revocation or disqualification;

41 unlicensed drivers

42 A. The department shall not suspend, revoke or disqualify a driver
43 license or privilege to drive a motor vehicle on the public highways for more
44 than one year from the date of a conviction or judgment, if any, against a

1 person for which this chapter makes revocation, suspension or
2 disqualification mandatory or from the date the notice is sent pursuant to
3 section 28-3318 if no conviction was involved, except as permitted under
4 subsection ~~D~~ E of this section and sections 28-1383, 28-3312, 28-3319,
5 28-3320 and 28-3473.

6 B. A person whose license or privilege to drive a motor vehicle on the
7 public highways has been revoked may apply for a new license as provided by
8 law after the cause of the revocation is removed or after expiration of the
9 revocation period prescribed by law. After the department investigates an
10 applicant's driving record in this state OR ANOTHER STATE BY EXAMINING
11 DEPARTMENT RECORDS OR OTHER SUFFICIENT EVIDENCE to determine that all
12 withdrawal actions are complete, that the applicant has not committed any
13 traffic violations within twelve months preceding application and that all
14 other statutory requirements are satisfied, the department may issue a new
15 license.

16 C. THE DEPARTMENT SHALL NOT ACCEPT AN APPLICATION FOR REINSTATEMENT
17 OF A DRIVER LICENSE UNTIL AFTER THE TWELVE MONTH PERIOD PRESCRIBED IN
18 SUBSECTION B OF THIS SECTION HAS ELAPSED.

19 ~~E~~ D. If the revocation is related to alcohol or other drugs, the
20 person shall provide the department with a current evaluation from a
21 physician licensed pursuant to title 32, chapter 13, 17 or 29, a psychologist
22 licensed pursuant to title 32, chapter 19.1 or a certified substance abuse
23 counselor as defined in section 28-3005 indicating that, in the opinion of
24 the physician, psychologist or counselor, the condition does not affect or
25 impair the person's ability to safely operate a motor vehicle. For the
26 purposes of reinstating a license or driving privilege pursuant to this
27 article, the department may rely on the opinion of a physician licensed
28 pursuant to title 32, chapter 13, 17 or 29, a psychologist licensed pursuant
29 to title 32, chapter 19.1 or a certified substance abuse counselor as defined
30 in section 28-3005.

31 ~~D~~ E. Notwithstanding subsections A and B of this section:

32 1. A person whose license or privilege to drive is revoked pursuant
33 to section 28-1383, subsection J or section 28-3304, subsection A, paragraph
34 1 or 9 is not entitled to have the person's license or privilege renewed or
35 restored for three years.

36 2. A person whose license or privilege to drive is revoked pursuant
37 to section 13-1209 is not entitled to have the person's license or privilege
38 renewed or restored for the period of time ordered by the court.

39 ~~E~~ F. Except as provided in section 28-3473, if an unlicensed driver
40 commits an offense for which a driver license could be suspended, revoked or
41 disqualified, the department shall not accept the unlicensed driver's
42 application for a driver license for a period equal to the period of time
43 that applies to a driver with a license. If the offense is one for which a
44 driver license could be revoked, the department shall not accept the

1 unlicensed driver's application for a driver license unless it investigates
2 the character, habits and driving ability of the person and is satisfied that
3 it is safe to grant the privilege of driving a motor vehicle on the public
4 highways.

5 ~~F.~~ G. The expiration of a person's license during the period of time
6 it is under suspension, revocation or disqualification does not invalidate
7 or terminate the suspension, revocation or disqualification.

8 ~~G.~~ H. A person whose license or privilege to drive a motor vehicle
9 on the public highways has been suspended pursuant to section 28-3306,
10 subsection A, paragraph 5 or section 28-3314 may apply for a new license as
11 provided by law after the cause for suspension is removed or after expiration
12 of the suspension period prescribed by law if both of the following
13 conditions are met:

14 1. The department is satisfied, after reviewing the medical condition
15 and driving ability of the person, that it is safe to grant the person the
16 privilege of driving a motor vehicle on the public highways.

17 2. If the person has a medical condition related to alcohol or other
18 drugs, the person provides the department with a current evaluation form from
19 a physician licensed pursuant to title 32, chapter 13, 17 or 29, a
20 psychologist licensed pursuant to title 32, chapter 19.1 or a certified
21 substance abuse counselor as defined in section 28-3005 indicating that, in
22 the opinion of the physician, psychologist or counselor, the condition does
23 not affect or impair the person's ability to operate a motor vehicle in a
24 safe manner.

25 Sec. 7. Title 28, chapter 8, Arizona Revised Statutes, is amended by
26 adding article 9, to read:

27 ARTICLE 9. SUSPENDED DRIVER LICENSE ENFORCEMENT

28 28-3511. Removal and impoundment of vehicle

29 A. A PEACE OFFICER MAY CAUSE THE REMOVAL AND IMPOUNDMENT OF A VEHICLE
30 IF THE PEACE OFFICER DETERMINES THAT A PERSON IS DRIVING THE VEHICLE WHILE
31 ANY OF THE FOLLOWING APPLIES:

32 1. THE PERSON'S DRIVING PRIVILEGE IS REVOKED FOR ANY REASON.

33 2. THE PERSON'S DRIVING PRIVILEGE IS SUSPENDED BECAUSE OF A DRIVING
34 UNDER THE INFLUENCE CONVICTION.

35 3. THE PERSON'S DRIVING PRIVILEGE IS SUSPENDED PURSUANT TO THE
36 DEPARTMENT'S ACTION BASED ON A PREVIOUS CONVICTION FOR A VIOLATION OF SECTION
37 28-3473.

38 4. THE PERSON'S DRIVING PRIVILEGE IS SUSPENDED PURSUANT TO SECTION
39 28-3306, SUBSECTION A, PARAGRAPH 3.

40 B. EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, A VEHICLE THAT IS
41 REMOVED AND IMPOUNDED PURSUANT TO SUBSECTION A OF THIS SECTION SHALL BE
42 IMPOUNDED FOR THIRTY DAYS.

43 C. THE OWNER OF A VEHICLE THAT IS REMOVED AND IMPOUNDED PURSUANT TO
44 SUBSECTION A OF THIS SECTION, THE SPOUSE OF THE OWNER AND EACH PERSON

1 IDENTIFIED ON THE DEPARTMENT'S RECORD WITH AN INTEREST IN THE VEHICLE SHALL
2 BE PROVIDED WITH AN OPPORTUNITY FOR A POSTSTORAGE HEARING PURSUANT TO SECTION
3 28-3514.

4 28-3512. Release of vehicle; definition

5 A. AN IMPOUNDING AGENCY SHALL RELEASE A VEHICLE TO THE OWNER BEFORE
6 THE END OF THE THIRTY DAY IMPOUNDMENT PERIOD UNDER ANY OF THE FOLLOWING
7 CIRCUMSTANCES:

8 1. IF THE VEHICLE IS A STOLEN VEHICLE.

9 2. IF THE VEHICLE IS SUBJECT TO BAILMENT AND IS DRIVEN BY AN EMPLOYEE
10 OF A BUSINESS ESTABLISHMENT, INCLUDING A PARKING SERVICE OR REPAIR GARAGE,
11 WHO IS SUBJECT TO SECTION 28-3511, SUBSECTION A.

12 3. IF THE OWNER PRESENTS PROOF SATISFACTORY TO THE IMPOUNDING AGENCY
13 THAT THE OWNER'S DRIVING PRIVILEGE HAS BEEN REINSTATED.

14 4. FOR THE SPOUSE OF THE OWNER OR ANY PERSON WHO IS IDENTIFIED AS AN
15 OWNER OF THE VEHICLE ON THE RECORDS OF THE DEPARTMENT, IF THE SPOUSE OR
16 PERSON WAS NOT THE DRIVER OF THE VEHICLE AT THE TIME OF REMOVAL AND
17 IMPOUNDMENT AND THE SPOUSE OR PERSON ENTERS INTO AN AGREEMENT WITH THE
18 IMPOUNDING AGENCY THAT STIPULATES THAT IF THE SPOUSE OR PERSON ALLOWS AN
19 UNLICENSED DRIVER TO DRIVE THE SPOUSE'S OR PERSON'S VEHICLE WITHIN FIVE YEARS
20 AFTER THE AGREEMENT IS SIGNED, THE SPOUSE OR PERSON WILL NOT BE ELIGIBLE TO
21 OBTAIN RELEASE OF THE SPOUSE'S OR PERSON'S VEHICLE BEFORE THE END OF THE
22 THIRTY DAY IMPOUNDMENT PERIOD.

23 B. A VEHICLE SHALL NOT BE RELEASED PURSUANT TO SUBSECTION A OF THIS
24 SECTION EXCEPT ON ORDER OF A COURT OR ON PRESENTATION OF THE OWNER'S OR
25 OWNER'S SPOUSE'S CURRENTLY VALID DRIVER LICENSE TO OPERATE THE VEHICLE AND
26 PROOF OF CURRENT VEHICLE REGISTRATION AND, IF THE DRIVING PRIVILEGE OF THE
27 PERSON DRIVING THE VEHICLE WAS SUSPENDED DUE TO A PREVIOUS CONVICTION FOR
28 DRIVING UNDER THE INFLUENCE PURSUANT TO SECTION 28-1381, SUBSECTION K,
29 PARAGRAPH 4, SECTION 28-1382 OR SECTION 28-1383 AND A CERTIFIED IGNITION
30 INTERLOCK DEVICE WAS REQUIRED TO BE INSTALLED ON THE VEHICLE, ON PRESENTATION
31 OF PROOF OF INSTALLATION OF A FUNCTIONING CERTIFIED IGNITION INTERLOCK DEVICE
32 IN THE VEHICLE. THE IMPOUNDING AGENCY, STORAGE YARD, FACILITY, PERSON OR
33 AGENCY HAVING PHYSICAL POSSESSION OF THE VEHICLE SHALL ALLOW ACCESS TO THE
34 IMPOUNDED VEHICLE FOR THE PURPOSE OF INSTALLING AN IGNITION INTERLOCK DEVICE.
35 THE IMPOUNDING AGENCY, STORAGE YARD, FACILITY, PERSON OR AGENCY HAVING
36 PHYSICAL POSSESSION OF THE VEHICLE SHALL NOT CHARGE A FEE FOR PROVIDING
37 ACCESS TO THE VEHICLE OR FOR THE INSTALLATION OF THE IGNITION INTERLOCK
38 DEVICE.

39 C. THE OWNER IS RESPONSIBLE FOR PAYING ALL TOWING AND STORAGE CHARGES
40 RELATED TO THE IMPOUNDMENT OF THE VEHICLE AND ANY ADMINISTRATIVE CHARGES
41 ESTABLISHED PURSUANT TO SECTION 28-3513, UNLESS THE VEHICLE IS STOLEN AND THE
42 THEFT WAS REPORTED TO THE APPROPRIATE LAW ENFORCEMENT AGENCY. IF THE VEHICLE
43 IS STOLEN AND THE THEFT WAS REPORTED TO THE APPROPRIATE LAW ENFORCEMENT

1 AGENCY, THEN THE OPERATOR OF THE VEHICLE AT THE TIME OF IMPOUNDMENT IS
2 RESPONSIBLE FOR ALL TOWING, STORAGE AND ADMINISTRATIVE CHARGES.

3 D. THE IMPOUNDING AGENCY SHALL RELEASE A VEHICLE TO A PERSON, OTHER
4 THAN THE OWNER, IDENTIFIED ON THE DEPARTMENT'S RECORD AS HAVING AN INTEREST
5 IN THE VEHICLE BEFORE THE END OF THE THIRTY DAY IMPOUNDMENT PERIOD IF ALL OF
6 THE FOLLOWING CONDITIONS ARE MET:

7 1. THE PERSON IS A MOTOR VEHICLE DEALER, BANK, CREDIT UNION OR
8 ACCEPTANCE CORPORATION OR ANY OTHER LICENSED FINANCIAL INSTITUTION LEGALLY
9 OPERATING IN THIS STATE OR IS ANOTHER PERSON WHO IS NOT THE OWNER AND WHO
10 HOLDS A SECURITY INTEREST IN THE VEHICLE.

11 2. THE PERSON PAYS ALL TOWING AND STORAGE FEES RELATED TO THE
12 IMPOUNDMENT OF THE VEHICLE UNLESS THE VEHICLE IS STOLEN AND THE THEFT WAS
13 REPORTED TO THE APPROPRIATE LAW ENFORCEMENT AGENCY. IF THE VEHICLE IS STOLEN
14 AND THE THEFT WAS REPORTED TO THE APPROPRIATE LAW ENFORCEMENT AGENCY, THEN
15 THE OPERATOR OF THE VEHICLE AT THE TIME OF IMPOUNDMENT IS RESPONSIBLE FOR ALL
16 TOWING, STORAGE AND ADMINISTRATIVE CHARGES.

17 3. THE PERSON PRESENTS FORECLOSURE DOCUMENTS OR AN AFFIDAVIT OF
18 REPOSSESSION OF THE VEHICLE.

19 E. BEFORE A PERSON DESCRIBED IN SUBSECTION D OF THIS SECTION RELEASES
20 THE VEHICLE, THE PERSON MAY REQUIRE THE OWNER TO PAY CHARGES THAT THE PERSON
21 INCURRED IN CONNECTION WITH OBTAINING CUSTODY OF THE VEHICLE, INCLUDING ALL
22 TOWING AND STORAGE CHARGES THAT ARE RELATED TO THE IMPOUNDMENT OF THE VEHICLE
23 AND ANY ADMINISTRATIVE CHARGES THAT ARE ESTABLISHED PURSUANT TO SECTION
24 28-3513.

25 F. A VEHICLE SHALL NOT BE RELEASED AFTER THE END OF THE THIRTY DAY
26 IMPOUNDMENT PERIOD EXCEPT ON PRESENTATION OF THE OWNER'S OR OWNER'S AGENT'S
27 CURRENTLY VALID DRIVER LICENSE TO OPERATE THE VEHICLE AND PROOF OF CURRENT
28 VEHICLE REGISTRATION AND, IF THE DRIVING PRIVILEGE OF THE PERSON DRIVING THE
29 VEHICLE WAS SUSPENDED DUE TO A PREVIOUS CONVICTION FOR DRIVING UNDER THE
30 INFLUENCE PURSUANT TO SECTION 28-1381, SUBSECTION K, PARAGRAPH 4, SECTION
31 28-1382 OR SECTION 28-1383 AND AN IGNITION INTERLOCK DEVICE WAS REQUIRED TO
32 BE INSTALLED ON THE VEHICLE, ON PRESENTATION OF PROOF OF INSTALLATION OF A
33 FUNCTIONING CERTIFIED IGNITION INTERLOCK DEVICE IN THE VEHICLE. THE
34 IMPOUNDING AGENCY, STORAGE YARD, FACILITY, PERSON OR AGENCY HAVING PHYSICAL
35 POSSESSION OF THE VEHICLE SHALL ALLOW ACCESS TO THE IMPOUNDED VEHICLE FOR THE
36 PURPOSE OF INSTALLING AN IGNITION INTERLOCK DEVICE. THE IMPOUNDING AGENCY,
37 STORAGE YARD, FACILITY, PERSON OR AGENCY HAVING PHYSICAL POSSESSION OF THE
38 VEHICLE SHALL NOT CHARGE A FEE FOR PROVIDING ACCESS TO THE VEHICLE OR FOR THE
39 INSTALLATION OF THE IGNITION INTERLOCK DEVICE.

40 G. THE STORAGE CHARGES RELATING TO THE IMPOUNDMENT OF A VEHICLE
41 PURSUANT TO THIS SECTION SHALL NOT EXCEED FIVE DOLLARS FOR EACH DAY OF
42 STORAGE.

43 H. THE IMPOUNDING AGENCY SHALL HAVE NO LIEN OR POSSESSORY INTEREST IN
44 A STOLEN VEHICLE IF THE THEFT WAS REPORTED TO THE APPROPRIATE LAW ENFORCEMENT

1 AGENCY. THE IMPOUNDING AGENCY SHALL RELEASE THE VEHICLE TO THE OWNER OR
2 PERSON OTHER THAN THE OWNER AS IDENTIFIED IN SUBSECTION D OF THIS SECTION
3 EVEN IF THE OPERATOR AT THE TIME OF IMPOUNDMENT HAS NOT PAID ALL TOWING,
4 STORAGE AND ADMINISTRATIVE FEES.

5 I. FOR THE PURPOSES OF THIS SECTION, "CERTIFIED IGNITION INTERLOCK
6 DEVICE" HAS THE SAME MEANING PRESCRIBED IN SECTION 28-1301.

7 28-3513. Administrative charges

8 A. THE DEPARTMENT SHALL ESTABLISH, BY RULE, PROCEDURES FOR POSTSTORAGE
9 HEARINGS, FOR THE RELEASE OF PROPERLY IMPOUNDED VEHICLES AND FOR IMPOSITION
10 OF A CHARGE EQUAL TO THE ADMINISTRATIVE COSTS RELATING TO THE REMOVAL,
11 IMPOUNDMENT, STORAGE OR RELEASE OF A VEHICLE. THE DEPARTMENT MAY WAIVE THE
12 ADMINISTRATIVE CHARGES.

13 B. THE ADMINISTRATIVE CHARGES ESTABLISHED PURSUANT TO THIS SECTION
14 SHALL NOT EXCEED ONE HUNDRED FIFTY DOLLARS.

15 C. THE DEPARTMENT SHALL COLLECT ANY ADMINISTRATIVE CHARGES AT THE TIME
16 OF THE RELEASE OF THE VEHICLE UNLESS THE VEHICLE IS STOLEN AND THE THEFT WAS
17 REPORTED TO THE APPROPRIATE LAW ENFORCEMENT AGENCY. IF THE VEHICLE IS STOLEN
18 AND THE THEFT WAS REPORTED TO THE APPROPRIATE LAW ENFORCEMENT AGENCY, THEN
19 THE OPERATOR OF THE VEHICLE AT THE TIME OF IMPOUNDMENT IS RESPONSIBLE FOR ALL
20 TOWING, STORAGE AND ADMINISTRATIVE CHARGES.

21 D. THE ADMINISTRATIVE CHARGES ESTABLISHED PURSUANT TO THIS SECTION ARE
22 IN ADDITION TO ANY OTHER IMPOUNDMENT OR STORAGE CHARGES.

23 28-3514. Hearings

24 A. IF A PEACE OFFICER REMOVES AND IMPOUNDS A VEHICLE PURSUANT TO
25 SECTION 28-3511, THE DEPARTMENT SHALL PROVIDE THE OWNER, THE SPOUSE OF THE
26 OWNER AND ANY OTHER PERSON IDENTIFIED ON THE DEPARTMENT'S RECORD AS HAVING
27 AN INTEREST IN THE VEHICLE WITH THE OPPORTUNITY FOR A POSTSTORAGE HEARING TO
28 DETERMINE THE VALIDITY OF THE STORAGE OR CONSIDER ANY MITIGATING
29 CIRCUMSTANCES RELATING TO THE STORAGE OR RELEASE OF THE VEHICLE BEFORE THE
30 END OF THE THIRTY DAY IMPOUNDMENT PERIOD.

31 B. WITHIN TWO WORKING DAYS AFTER IMPOUNDMENT, THE DEPARTMENT SHALL
32 SEND A NOTICE OF STORAGE BY REGULAR MAIL TO EACH PERSON, OTHER THAN THE
33 OWNER, IDENTIFIED ON THE DEPARTMENT'S RECORD AS HAVING AN INTEREST IN THE
34 VEHICLE. SERVICE OF NOTICE OF STORAGE IS COMPLETE ON MAILING. IF THE
35 DEPARTMENT FAILS TO NOTIFY A PERSON, OTHER THAN THE OWNER, IDENTIFIED ON THE
36 DEPARTMENT'S RECORD AS HAVING AN INTEREST IN THE VEHICLE WITHIN TWO WORKING
37 DAYS AFTER IMPOUNDMENT, THE PERSON IN POSSESSION OF THE VEHICLE SHALL NOT
38 CHARGE MORE THAN FIFTEEN DAYS' IMPOUNDMENT WHEN THE PERSON REDEEMS THE
39 IMPOUNDED VEHICLE.

40 C. WITHIN TWO WORKING DAYS AFTER IMPOUNDMENT, THE IMPOUNDING AGENCY
41 SHALL MAIL OR PERSONALLY DELIVER NOTICE OF STORAGE TO THE OWNER OF THE
42 VEHICLE.

43 D. THE NOTICE OF STORAGE SHALL INCLUDE ALL OF THE FOLLOWING
44 INFORMATION:

1 1. A STATEMENT THAT THE VEHICLE WAS IMPOUNDED.
2 2. THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE IMPOUNDING AGENCY
3 PROVIDING THE NOTICE.
4 3. THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE DEPARTMENT THAT WILL
5 PROVIDE THE POSTSTORAGE HEARING.
6 4. THE LOCATION OF THE PLACE OF STORAGE AND A DESCRIPTION OF THE
7 VEHICLE, INCLUDING, IF AVAILABLE, THE MANUFACTURER, MODEL, LICENSE PLATE
8 NUMBER AND MILEAGE OF THE VEHICLE.
9 5. A STATEMENT THAT IN ORDER TO RECEIVE A POSTSTORAGE HEARING THE
10 OWNER, THE SPOUSE OF THE OWNER, THE OWNER'S AGENT OR PERSON IDENTIFIED IN THE
11 DEPARTMENT'S RECORD AS HAVING AN INTEREST IN THE VEHICLE SHALL CONTACT THE
12 DEPARTMENT IN PERSON, IN WRITING OR BY TELEPHONE WITHIN TEN DAYS AFTER THE
13 DATE ON THE NOTICE AND REQUEST A POSTSTORAGE HEARING.
14 E. THE POSTSTORAGE HEARING SHALL BE CONDUCTED BY THE DEPARTMENT WITHIN
15 TWO WORKING DAYS AFTER RECEIPT OF THE REQUEST.
16 F. FAILURE OF THE OWNER, THE SPOUSE OF THE OWNER OR OTHER PERSON OR
17 THE OTHER PERSON'S AGENT TO REQUEST OR TO ATTEND A SCHEDULED HEARING
18 SATISFIES THE POSTSTORAGE HEARING REQUIREMENT.
19 G. THE IMPOUNDING AGENCY EMPLOYING THE PERSON WHO DIRECTED THE STORAGE
20 IS RESPONSIBLE FOR THE COSTS INCURRED FOR TOWING AND STORAGE IF IT IS
21 DETERMINED IN THE POSTSTORAGE HEARING THAT REASONABLE GROUNDS FOR THE
22 IMPOUNDMENT AND STORAGE ARE NOT ESTABLISHED.
23 28-3515. Unclaimed vehicles
24 IF A CLAIM HAS NOT BEEN MADE FOR THE RETURN OR POSSESSION OF THE
25 VEHICLE BY A PERSON LEGALLY ENTITLED TO THE VEHICLE WITHIN THIRTY DAYS AFTER
26 A VEHICLE IS IMPOUNDED PURSUANT TO THIS ARTICLE, THE PERSON WHO HAS
27 POSSESSION OF THE VEHICLE SHALL SUBMIT AN ABANDONED VEHICLE REPORT AS
28 PROVIDED IN SECTION 28-4838.
29 Sec. 8. Section 28-4834, Arizona Revised Statutes, as amended by Laws
30 2001, chapter 210, section 1, is amended to read:
31 28-4834. Vehicle removal
32 A. An officer who has reasonable grounds to believe that a vehicle has
33 been lost, stolen, abandoned or otherwise unclaimed may remove or cause the
34 removal of the vehicle from any street or highway or on any other public,
35 federal, state trust, national forest, state park or bureau of land
36 management land or private property.
37 B. In counties with a population of ~~four hundred thousand persons or~~
38 less THAN ONE MILLION FIVE HUNDRED THOUSAND PERSONS, before an officer
39 removes or causes the removal of a vehicle that is abandoned as provided in
40 section 28-4839 from the person in possession of the vehicle, the owner or
41 lienholder of THE VEHICLE or ANY other person who has an interest in the
42 vehicle shall pay the person on whose property the vehicle was discovered an
43 amount that does not exceed five dollars for each day of storage up to a
44 maximum of five hundred dollars for the storage of the vehicle and the fee

1 for processing an abandoned vehicle report as prescribed by section 28-4802
2 if the person on whose property the vehicle was discovered does both of the
3 following:

4 1. Notifies a law enforcement agency by telephone in the jurisdiction
5 where the vehicle was discovered of the presence of the vehicle on the
6 person's property within forty-eight hours after the property owner
7 discovered the vehicle.

8 2. Gives notice of abandonment of the vehicle in the manner prescribed
9 by law.

10 C. This section does not require a law enforcement agency to pay any
11 charges related to a vehicle that a law enforcement agency is required or
12 otherwise authorized by law to impound or remove.

13 D. If a person removes or causes the removal of an abandoned vehicle
14 from private property, the person shall both:

15 1. Obtain written authorization from the owner or lessee of the
16 property on a form prescribed by the director.

17 2. Submit the form and the vehicle identification form to the
18 department.

19 E. An officer who is employed by a public agency or political
20 subdivision and who has removed an abandoned vehicle pursuant to this section
21 or who has removed or caused to be removed a vehicle pursuant to section
22 28-872 shall inspect the vehicle and shall complete the vehicle
23 identification form prescribed or approved by the director. The agency or
24 political subdivision shall make an inquiry to determine whether the
25 abandoned vehicle is a stolen abandoned vehicle.

26 F. A person who has removed or caused to be removed an abandoned
27 vehicle from public land pursuant to section 28-4802 or private property
28 shall have the vehicle inspected by an officer or agent of the department who
29 shall complete the vehicle identification form prescribed by the director.
30 The officer or agent designated by the director shall make an inquiry to
31 determine whether the abandoned vehicle is a stolen abandoned vehicle.

32 Sec. 9. Section 28-5812, Arizona Revised Statutes, as added by Laws
33 2001, chapter 40, section 1, is amended to read:

34 28-5812. Incorrect distributions; adjustments

35 A. If the director determines that any of the amounts distributed
36 pursuant to this article during the preceding twenty-four months are
37 incorrect, the director shall adjust future monthly distributions to correct
38 any overages or shortages as provided in this section. The director shall
39 distribute vehicle license tax revenues in accordance with the adjusted
40 distributions determined pursuant to this section.

41 B. An adjustment to the amount distributed shall not be initiated
42 pursuant to this section more than twenty-four months after the original
43 distribution.

- 1 C. The director shall adjust the distributions as follows:
- 2 1. In the ~~cases~~ CASE of overages, the director shall reduce the
- 3 subsequent monthly distribution by the amount of the overage if the remaining
- 4 distribution is at least seventy-five per cent of the amount that would
- 5 otherwise have been distributed to the recipient. If the entire amount of
- 6 the required adjustment cannot be made in a single month, the director shall
- 7 repeat the procedure in subsequent months until the overage is corrected.
- 8 2. In the case of shortages, the director shall increase the
- 9 subsequent monthly distribution by the amount of the shortage, if the total
- 10 amount of all of the INCREASES IN A SINGLE MONTH DOES NOT EXCEED THE TOTAL
- 11 AMOUNT OF ALL OF THE reductions made pursuant to paragraph 1 ~~does not exceed~~
- 12 ~~the reductions~~ in that month. If the total of all reductions in a month is
- 13 less than the amount of the increases, the director shall proportionally
- 14 reduce the increases.

APPROVED BY THE GOVERNOR MAY 8, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 8, 2001.

20 Nays, 3 Not Voting

Forman L. Moore
Chief Clerk of the House

3 Days, 0 Not Voting

Charmine Bellington
Secretary of the Senate

S.B. 1137

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House May 03, 2001,

by the following vote: 48 Ayes,

6 Nays, 6 Not Voting

Speaker of the House

Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate May 3, 2001,

by the following vote: 25 Ayes,

3 Nays, 1 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor

this 3 day of May, 2001,

at 11:30 o'clock A M.

Secretary to the Governor

Approved this 8 day of

May, 2001,

at 3:55 o'clock P M.

Governor of Arizona

S.B. 1137

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 8 day of May, 2001,

at 5:30 o'clock P M.

Secretary of State